

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 259

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-513, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO GRANTING AN EMPLOYEE'S REQUEST FOR VOLUNTARY LEAVE OF ABSENCE, TO ESTABLISH PROVISIONS RELATING TO THE DELEGATION OF AUTHORITY TO PLACE AN EMPLOYEE ON AN INVOLUNTARY LEAVE OF ABSENCE, TO PROVIDE FOR RATIFICATION OF CERTAIN ACTION, TO ESTABLISH PROVISIONS RELATING TO AN INVOLUNTARY LEAVE OF ABSENCE WITHOUT PAY, TO ESTABLISH PROVISIONS RELATING TO AN INVOLUNTARY LEAVE OF ABSENCE WITH PAY, TO ESTABLISH PROVISIONS RELATING TO DUAL COURT ORDERS, TO ESTABLISH PROVISIONS RELATING TO AN INVESTIGATION, TO MAKE A CODIFIER'S CORRECTION AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-513, Idaho Code, be, and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district, including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state superintendent of public instruction shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) days from the date the contract is delivered, in which to sign the contract and return it to the board. Delivery of a contract may be made only in person or by certified mail, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail, delivery must be acknowledged by the return of the certified mail receipt from the person to whom the contract was sent. Should the person willfully refuse to acknowledge receipt of the contract or the contract is not signed and returned to the board in the designated period of time, the board may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract to require any teacher to make up time spent in attending any meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative. The board of trustees shall conduct an annual, written formal evaluation of the work of the superintendent of the district. The evaluation shall indicate the strengths and weaknesses of the superintendent's job performance in the year immediately preceding the evaluation and areas where improvement in the superintendent's job performance, in the view of the board of trustees, is called for.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents and principals for a term not to exceed two (2) years. Service performed under such contract shall be included in meeting the provisions of section 33-515, Idaho Code, as a teacher and persons eligible for a renewable contract as a teacher shall retain such eligibility.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice the board, acting through ~~their~~ its duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

1 (g) The chairman of the board or the designee of the chairman shall con-
2 duct the hearing.

3 (h) The board shall cause an electronic record of the hearing to be made
4 or shall employ a competent reporter to take stenographic or stenotype
5 notes of all the testimony at the hearing. A transcript of the hearing
6 shall be provided at cost by the board upon request of the employee.

7 (i) At the hearing, the superintendent or other duly authorized admin-
8 istrative officer shall present evidence to substantiate the allega-
9 tions contained in such notice.

10 (j) The employee may produce evidence to refute the allegations. Any
11 witness presented by the superintendent or by the employee shall be sub-
12 ject to cross-examination. The board may also examine witnesses and be
13 represented by counsel.

14 (k) The affected employee may file written briefs and arguments with
15 the board within three (3) days after the close of the hearing or such
16 other time as may be agreed upon by the affected employee and the board.

17 (l) Within fifteen (15) days following the close of the hearing, the
18 board shall determine and, acting through ~~their~~ its duly authorized
19 administrative official, shall notify the employee in writing whether
20 the evidence presented at the hearing established the truth of the
21 allegations and whether the employee is to be retained, immediately
22 discharged, or discharged upon termination of the current contract.

23 6. To grant an employee's request for voluntary leave of absence. The
24 board of trustees may delegate ongoing authority to grant an employee's
25 request for voluntary leave of absence to the district's superintendent or
26 other designee. Upon the superintendent or designee's granting of an em-
27 ployee's request for voluntary leave of absence, the board shall ratify or
28 nullify the action at the next regularly scheduled board meeting.

29 7. To delegate to the superintendent or other designee the ongoing
30 authority to place any employee on a period of involuntary leave of absence
31 should the superintendent or designee believe that such action is in the
32 best interest of the district. Upon the superintendent or designee's action
33 to place an employee on a period of involuntary leave of absence, the board
34 shall ratify or nullify the action of the superintendent or designee at the
35 next regularly scheduled meeting of the board or at a special meeting of the
36 board should the next regularly scheduled meeting of the board not be within
37 a period of twenty-one (21) days from the date of the action.

38 (a) Where there is a criminal court order preventing the employee from
39 being in the presence of minors or students, preventing the employee
40 from being in the presence of any other adult individual employed at
41 the school or detaining the employee in prison or jail, the employee's
42 involuntary leave of absence shall be without pay due to the employee's
43 inability to perform the essential functions of the employee's posi-
44 tion. Without such a condition or situation, the involuntary leave of
45 absence shall be with pay.

46 (b) Should there be dual court orders preventing more than one (1) em-
47 ployee from being in the presence of one (1) or more other employees, all
48 employees subject to the court order shall be excluded from the school
49 pursuant to subsection 7. (a) of this section.

1 (c) If the period of involuntary leave of absence is due to the dis-
2 trict's need to conduct an investigation into the conduct of the em-
3 ployee, and there are no related criminal investigation(s) and/or crim-
4 inal charges of any nature pending, the administration shall complete
5 its investigation within a period of sixty (60) working days. On or
6 before the sixtieth working day, the administrative leave shall either
7 cease and the employee shall be returned to his position of employment
8 or the administration shall advance a personnel recommendation to the
9 board of trustees. If a recommendation is advanced, the involuntary
10 leave of absence shall continue until such time as the district board
11 has made its decision in regard to the personnel recommendation with
12 such decision effectively concluding the involuntary leave of absence.
13 If a related criminal investigation is occurring and/or criminal
14 charges are pending, the district shall not be bound to any limitation
15 as to the duration of involuntary leave of absence. The timelines es-
16 tablished in this section may be waived or modified by mutual agreement.